

CELESTE RIDGWAY  
CLERK CIRCUIT COURT

Counterclaim/Third-Party Plaintiff MedTest Laboratories, LLC, and for Defendants Billy Taylor; Brice Taylor; Michael Chen, Ph.D.; James Taylor; Cenegen, LLC; and Vitas Laboratory, LLC (collectively, the “MedTest Defendants”). Dr. Amjad copied the correspondence to counsel for Plaintiff Highmark West Virginia Inc. (“Plaintiff” or “Highmark WV”). In the correspondence, Dr. Amjad expressed his desire to “[r]emain[] neutral” with respect to the threshold dispute between Highmark WV and the MedTest Defendants. Dr. Amjad opined further that the “time now has come that I should not receive any services from [counsel]”; that “I don’t think that you can defend all [MedTest Defendants] by single approach”; and that “[I] don’t want to be represented by any lawyer.” At the conclusion of the correspondence, Dr. Amjad directed counsel to “please send notification to the court as I will not be represented by any lawyer.”

2. Dr. Amjad’s October 21, 2019 correspondence also requested discovery and related materials from Highmark WV. In adherence to the ethical proscriptions against communicating directly with represented parties, *see* W. VA. R. PROF. CONDUCT 4.2, counsel for Highmark WV did not respond to those requests. Nonetheless, on October 30, 2019, and on November 5, 2019, Dr. Amjad directed additional requests to Highmark WV, prompting Plaintiff’s counsel on November 7, 2019, to write a letter to his counterpart for the MedTest Defendants to ask that the subject Motion be filed.

3. Also on November 7, 2019, Dr. Amjad wrote the Court a letter. Therein, Dr. Amjad distanced himself both from Plaintiffs and from the MedTest Defendants, requesting specifically “that I should be considered separately from the rest of defendants and throughout this case.” Dr. Amjad explained that “I am trying my best to find a lawyer which I can afford and when found first thing [I] want to do is file a counter lawsuit against” Highmark WV.

4. Movants considered Dr. Amjad's actions and statements to indicate his desire to have them no longer represent him. Consequently, on November 8, 2019, Movants transmitted a letter via electronic mail to Dr. Amjad notifying him of their intent to file the subject Motion "for an order approving our withdrawal as your counsel." The November 8, 2019 letter tracked the relevant language of the West Virginia Trial Court Rules, prescribing the specific information that a lawyer must give a client before being permitted to withdraw, namely notice:

- (1) that the attorney wishes to withdraw;
- (2) that the court retains jurisdiction;
- (3) that the client has the burden of keeping the court informed where notice, pleadings, or other papers may be served;
- (4) that the client has the obligation of preparing for trial or hire other counsel to prepare for trial when the trial date has been set;
- (5) that if the client fails or refuses to meet these burdens, the client may suffer possible default;
- (6) that the dates of any proceedings, including trial, and the holding of any such proceedings will not be affected by the withdrawal of any counsel;
- (7) that service of process may be made upon the client at the client's last known address; and
- (8) of the client's right to object immediately to attorney's intent to withdraw.

T.C.R. 4.03(b).

5. Movants filed the subject Motion on November 12, 2019, on which the Court convened a hearing on December 11, 2019.

6. At the hearing, Dr. Amjad told the Court that he perceived a conflict of interest to have arisen between him and the MedTest Defendants. The Court thereupon swore Dr. Amjad, who acknowledged having received Movants' November 8, 2019 letter and the mandatory notices within. To ensure that Dr. Amjad was fully aware of all eight specific notifications and what they

meant, the Court repeated them aloud, one by one, inquiring separately after each whether he understood what had just been read. Dr. Amjad indicated his understanding through his affirmative responses to each inquiry, further demonstrating his comprehension by availing himself of his right to object and informing the Court as to Movants:

I don't have any problem with them as long as they keep me separate and they provide the basic legal service. I do not represent whatever the other defendant's [sic] have done or they are doing as of today. The purpose of writing [the] letter to the Court [was] to separate myself.

7. The Court noted the objection, and it proceeded to further advise Dr. Amjad that he has the "absolute right" to defend himself, but that the case is a complex one, with many lawyers and numerous filings, such that his unfamiliarity with the process could ultimately work to his disadvantage. The Court specifically warned Dr. Amjad that, in the event the subject Motion is granted, it could not under any circumstances advise him what he should or should not do in the course of representing himself. Dr. Amjad assured the Court that he understood and appreciated its warnings. The Court then asked Dr. Amjad whether he had any questions concerning any matter discussed at the hearing, and Dr. Amjad responded that he did not.

8. Based on the foregoing recitation of historical fact and upon mature contemplation of the parties' briefing and arguments, the Court **FINDS** that Dr. Amjad has been given and understands the notice required by West Virginia Trial Court Rule 4.03(b) regarding the requested withdrawal of Movants, together with the potential adverse consequences, if he does not obtain replacement counsel, of representing himself in these proceedings.

9. The Court **FINDS FURTHER** that communications between Dr. Amjad and Movants have deteriorated, and, moreover, that the litigation positions of Dr. Amjad and the MedTest Defendants have become sufficiently adverse to each other that a conflict of interest between them may be presumed, all to the effect that the subject Motion is appropriately made.

### ***CONCLUSIONS OF LAW***

1. The circumstances under which a lawyer must or may seek to withdraw from representation of a client are exhaustively set forth in Rule 1.16 of the West Virginia Rules of Professional Conduct. Of threshold import here is Rule 1.16(a)(1), which provides that a lawyer “shall withdraw” whenever “the representation will result in violation of the Rules of Professional Conduct or other law.”

2. The Rules of Professional Conduct instruct, in pertinent part, that

a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: ( 1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client.

W. VA. R. PROF. CONDUCT 1.7(a). When confronted with a concurrent conflict of interest, a lawyer may commence or continue representation of all affected clients only if, *inter alia*, “the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each” and each “gives informed consent, confirmed in writing.” *Id.* 1.7(b)(1), -(b)(4).

3. The Court **CONCLUDES** that the respective litigation positions of Dr. Amjad and the MedTest Defendants have become materially adverse and irreconcilable, as convincingly evidenced by the deterioration in communications between Dr. Amjad and Movants. The circumstances have therefore given rise to a concurrent conflict of interest on the part of Movants from their simultaneous representation of the MedTest Defendants and of Dr. Amjad. Neither the MedTest Defendants nor Dr. Amjad have consented in writing to the conflict, and Movants are justified in doubting that, going forward, they will continue to be able to provide competent and diligent representation to each. As such, Movants were required by the Rules of Professional

Conduct to seek to withdraw from the contemporaneous representation, and this Court must permit them to do so.

4. Accordingly, the Court **ORDERS** as follows:

(a) Movants' Motion for Leave to Withdraw as Counsel for Defendant Muhammad Amjad, Ph.D., is **GRANTED**, effective December 11, 2019;

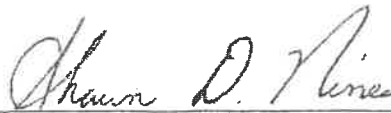
(b) Defendant Muhammad Amjad, Ph.D., is permitted to represent himself in these proceedings until further **ORDER** of the Court to the contrary, or until he obtains substitute counsel, whichever occurs first;

(c) In accordance with Rule 1.16(d) of the Rules of Professional Conduct, to the extent that they have not already done so, Movants are **ORDERED** to surrender to Defendant Muhammad Amjad, Ph.D., a complete copy of the entire case file, along with any other papers and property to which he is entitled; and

(d) All parties are **ORDERED** to serve on Defendant Muhammad Amjad, Ph.D., at his home address or, if the parties agree, by electronic mail, copies of all Court filings and of all case materials properly served on other parties from December 11, 2019, forward.

The Clerk of the Court is directed to send a certified copy of this Order to all current counsel of record in this case, and to Defendant Muhammad Amjad, Ph.D., *pro se*.

Dated: February 26<sup>th</sup>, 2020



SHAWN D. NINES  
Circuit Judge

\* Court notes Defendant, Muhammad Amjad's objections as submitted.  
*Shawn D. Nines*

COUNTY OF WOOD, TO-WIT:

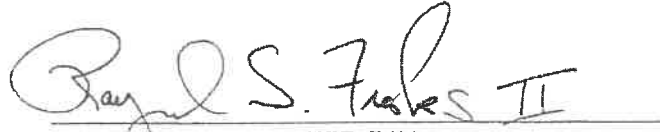
I, CELESTE RIDGWAY, Clerk of the Circuit Court of Wood County, West Virginia, hereby certify that the foregoing is a true and complete copy of an order entered in said Court, on the 27 day of Feb 2020, as fully as the same appears to me of record.

Given under my hand and seal of said Circuit Court, this the 2 day of March 2020

*Celeste Ridgway*  
Clerk of the Circuit Court of  
Wood County, West Virginia

By: *[Signature]*, Deputy

Prepared and Submitted By:



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**IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

<b>HIGHMARK WEST VIRGINIA INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	<b>Civil Action No. 18-C-271</b>
<b>MEDTEST LABORATORIES LLC, et al.,</b>	)	<b>Presiding Judge: Shawn D. Nines</b>
	)	<b>Resolution Judge: Christopher Wilkes</b>
<b>Defendant.</b>	)	
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<b>MEDTEST LABORATORIES LLC</b>	)	
	)	
<b>Counterclaim and</b>	)	
<b>Third Party Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>HIGHMARK WEST VIRGINIA INC., et al.,</b>	)	
	)	
<b>Counterclaim and</b>	)	
<b>Third-Party Defendants.</b>	)	
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**CERTIFICATE OF SERVICE**

The undersigned counsel for Defendant and Counterclaim/Third-Party Plaintiff MedTest Laboratories, LLC, and for Defendants Brice Taylor; Billy Taylor; Michael Chen, Ph.D.; James Taylor; Cenegen, LLC; and Vitas Laboratory, LLC, does hereby certify that I have served a true and accurate copy of the foregoing proposed *Order Granting Motion for Leave to Withdraw as Counsel for Defendant Muhammad Amjad, Ph.D.* on the 7th day of February, 2020, via electronic mail upon the following counsel of record:



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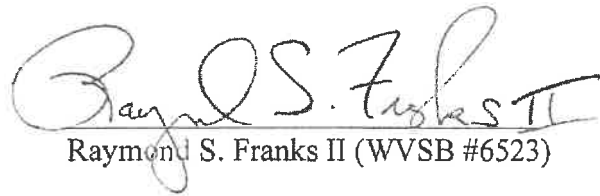
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*affiliated companies CareFirst of Maryland, Inc. d/b/a CareFirst BlueCross BlueShield, and Group Hospitalization and Medical Services, Inc. d/b/a CareFirst BlueCross BlueShield; Horizon Healthcare Services, Inc. d/b/a Horizon Blue Cross Blue Shield of New Jersey; Triple-S Salud, Inc.; Wellmark, Inc. d/b/a/ Wellmark Blue Cross and Blue Shield of Iowa, and its affiliated company Wellmark of South Dakota, Inc. d/b/a Wellmark Blue Cross and Blue Shield of South Dakota; Blue Cross and Blue Shield of Vermont; Independence Hospital Indemnity Plan, Inc.; Blue Cross and Blue Shield of Florida, Inc.*

A handwritten signature in black ink, reading "Raymond S. Franks II". The signature is written in a cursive, flowing style. The first name "Raymond" is written in a larger, more prominent script, followed by "S." and "Franks II". The signature is positioned above a horizontal line.

Raymond S. Franks II (WVSB #6523)